

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

Conservatorship of the Person of  
ROBIN LEE AYERS

CATHERINE AYERS,  
Petitioner,

v.

ROBIN CRAMER,  
Objector and Appellant;

LAURIE BARBER,  
Real Party in Interest and  
Respondent.

D057420

(Super. Ct. No. P191304)

APPEAL from a judgment of the Superior Court of San Diego County, Julia C.

Kelety, Judge. Affirmed.

Robin Lee Cramer (Cramer) appeals in propria persona the probate court's order that (1) appointed her mother Catherine Ayers (Ayers) as temporary conservator of Cramer's person and estate; (2) granted Ayers powers to preserve Cramer's "real property

. . . by securing a loan to payoff creditors and bail bonding companies with liens against the residence;" (3) affirmed the rates, terms and fees for Ayers's loan and ruled they were necessary and commercially reasonable; and (4) granted Ayers's attorney, Laurie Barber, \$30,735 in attorney fees and \$2,325.41 in costs.

Cramer contends Ayers was unfit and failed to carry out her duties as temporary conservator, she (Cramer) lacked adequate legal representation during the proceedings in the probate court, and the court investigator performed poorly.

Barber, who is the real party in interest, counters that the attorney fees and costs were properly awarded. She also contends Cramer fails to support her arguments with legal authority, and improperly raises new issues for the first time on appeal. We affirm.

## BACKGROUND

We set forth in detail the contents of Cramer's opening brief to evaluate Barber's contention that Cramer omits proper legal arguments. In the first part of the brief titled "Statement of Case," Cramer asserts: "I would have to say that the procedural history of the case would be mostly all summed up in a few words and these words would be the whole nature of the case which shows grand theft of property, check fraud, mortgage fraud, concealment, collusion, duress, real estate fraud, malice aforethought, embezzlement, coercion, elder abuse, disabled abuse, misuse, waste and misrepresentation." Cramer also contends none of her witnesses were allowed to testify. This section contains no helpful record citation.

Cramer lists in a "Statement of Appealability" section various challenges to the temporary conservator's actions. This is followed by a "Statement of Facts," which in its

entirety reads: "1. The trial in general. Appellant was denied a trial by jury[.] [¶] 2. Accounting (very late and excessive) [¶] 3. Violation of civil rights [¶] 4. Witnesses prevented from testifying for Appellant [¶] 5. Conservatorship was granted based on insufficient evidence that Appellant was able to care for self/and property[.]" Neither section includes any record citation.

In a section titled, "Introduction and Statement of Facts," Cramer reiterates the contents of the order appealed from. Cramer disputes the probate court's finding that Ayers's loan was necessary and commercially proper in a section titled, "Argument." She argues, without legal or record citation, "The loan was secured from a predatory lender and was not done in the conservative's [*sic*] best interests. Had the conservatorship not been granted, Appellant could have sold her asset for a substantial profit, pay her outstanding obligations and obtained alternative housing, which she still would have owned free and clear." Cramer again objects that Ayers delayed in obtaining the loan, the establishment of the conservatorship was improper and insufficient evidence supported the grant of "excessive and unreasonable" attorney fees. Cramer repeats her contentions that the probate court did not allow her witnesses to testify and failed to appoint counsel for Cramer. Cramer contends Ayers failed to file a general plan with the probate court detailing how Cramer's personal and financial needs would be met and how her assets would be preserved.

Cramer reiterates in the next section titled, "List of Issues," the contentions already mentioned, and includes no citation to the record or legal authority. Another section lists the standard of review for each issue raised, with no reference to legal authority.

In a later section also captioned, "Argument," Cramer contends: "The trial court committed prejudicial error in refusing to let [Cramer's] husband attend the last day of trial and testify. Most of all the error was for there to even be a trial, especially after the apple's [*sic*] accountants were three years late. Appellant presented sufficient evidence to prove all conditions of her argument to the Court that the accountants were excessive and very late was prejudicial error. [¶] We have suffered a great deal of non-monetary losses such as pain, mental suffering, emotional distress, loss of society and companionship, loss of consortium, humiliation and injury to reputation. Also of monetary losses such as medical expenses, loss of our property, and costs of obtaining domestic services."

In the "Conclusion," Cramer repeats contentions already raised and requests that we "set aside the granting of the conservatorship, the approval of the final accounting, and set aside the fraudulent loan obtained against [her] property."

## DISCUSSION

We agree Cramer's opening brief is unhelpful for our review, and note she did not file a reply brief. California Rules of Court, rule 8.204 provides that each appellate brief must "[s]upport any reference to a matter in the record by a citation to the volume and page number of the record where the matter appears." (Cal. Rules of Court, rule 8.204(a)(1)(C).) The rule requires that an appellant's opening brief must "[s]tate the nature of the action, the relief sought in the trial court, and the judgment or order appealed from, and it must "[p]rovide a summary of the significant facts limited to matters in the record." (Cal. Rules of Court, rule 8.204(a)(2)(A), (C).) Statements of fact not part of, or supported by, citations to the record on appeal are improper and cannot be

considered on appeal. (Cal. Rules of Court, rule 8.204(a)(2)(C); *Kendall v. Barker* (1988) 197 Cal.App.3d 619, 625.)

"If a party fails to support an argument with the necessary citations to the record, that portion of the brief may be stricken and the argument deemed to have been waived." (*Duarte v. Chino Community Hospital* (1999) 72 Cal.App.4th 849, 856; *Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1246, fn. 14; see also *City of Lincoln v. Barringer* (2002) 102 Cal.App.4th 1211, 1239; *Guthrey v. State of California* (1998) 63 Cal.App.4th 1108, 1115.) We are not required to search the record to determine whether it contains support for Cramer's contentions. (*Mansell v. Board of Administration* (1994) 30 Cal.App.4th 539, 545.)

" 'A fundamental principle of appellate practice is that an appellant 'must affirmatively show error by an adequate record. . . . Error is never presumed. . . . 'A judgment or order of the lower court is *presumed correct*. All intendments and presumptions are indulged to support it on matters as to which the record is silent . . . . ' ' ' [Citation.] [¶] 'When a litigant is appearing in propria persona, he is entitled to the same, but no greater, consideration than other litigants and attorneys.' " (*Bianco v. California Highway Patrol* (1994) 24 Cal.App.4th 1113, 1125-1126.)

Because Cramer's opening brief does not contain any helpful citations to the appellate record or to case law to support her assertions of fact, procedure and law, we consider her contentions on appeal forfeited. (*Nwosu v. Uba, supra*, 122 Cal.App.4th at p. 1247; *City of Lincoln v. Barringer, supra*, 102 Cal.App.4th at p. 1239; *Duarte v. Chino*

*Community Hospital, supra*, 72 Cal.App.4th at p. 856; *Guthrey v. State of California, supra*, 63 Cal.App.4th at p. 1115.)

We note the two different "Argument" sections of Cramer's opening brief merely list her assertions. She fails to refer to the separate bodies of law governing each of the separate issues she raises, and fails to discuss each legal argument in detail, with reference to the facts developed in the record. " 'The reviewing court is not required to make an independent, unassisted study of the record in search of error or grounds to support the judgment.' [Citations.] . . . If no citation 'is furnished on a particular point, the court may treat it as waived.' [Citation.] We find this is an appropriate case in which to apply the waiver rule." (*Guthrey v. State of California, supra*, 63 Cal.App.4th at p. 1115.) We therefore conclude Cramer has waived the issues raised on appeal. This conclusion leaves undisturbed the trial court's judgment, which is presumed to be correct.

We also note that to the extent Cramer raises claims for the first time on appeal, they are waived. Contentions not called to the attention of the probate court will not be considered for the first time on appeal. (*Estate of Dow* (1949) 91 Cal.App.2d 420, 433, superseded by statute on another ground as stated in *In re Hewitt's Estate* (1958) 160 Cal.App.2d 584.) "Where a procedural defect could be corrected in the trial court, and no objection is made in that court, it is generally held that the complaining party has waived his right to object and may not successfully raise the point on appeal." (*Nanny v. Ruby Lighting Corp.* (1952) 108 Cal.App.2d 856, 859.)

## DISPOSITION

The judgment is affirmed. Laurie Barber is awarded costs on appeal.

---

O'ROURKE, J.

WE CONCUR:

---

HUFFMAN, Acting P. J.

---

NARES, J.